

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

US EPA RECORDS CENTER REGION 5



514970

UNITED STATES OF AMERICA,

Civil No. 4-80-469

Plaintiff,

and

STATE OF MINNESOTA, by its  
Attorney General Hubert H.  
Humphrey III, its Department  
of Health, and its Pollution  
Control Agency,

plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION;  
HOUSING AND REDEVELOPMENT AUTHORITY  
OF ST. LOUIS PARK: OAK PARK VILLAGE  
ASSOCIATES; RUSTIC OAKS CONDOMINIUM,  
INC.; and PHILLIP'S INVESTMENT CO.,

Defendants,

and

CITY OF ST. LOUIS PARK,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant,

and

CITY OF HOPKINS,

plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

UNITED STATES' INTERROGATORIES  
AND REQUESTS FOR THE PRODUCTION  
OF DOCUMENTS TO REILLY TAR &  
CHEMICAL CORPORATION

Pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedures, defendant Reilly Tar & Chemical Corporation ("Reilly") is requested to respond to the following interrogatories and produce the documents requested herein within 30 days unless superceded by order of the court.

INSTRUCTIONS AND DEFINITIONS

As used herein, "document" shall refer to any type of item or material which any party may request another party to produce for inspection under Rule 34 of the Federal Rules of Civil Procedure.

As used herein, the term "hazardous substance" shall have the meaning specified in 42 U.S.C. §§9601(14). The terms "pollutants" and "contaminants" shall refer to all matter introduced by Reilly or from Reilly operations into the environment and is not limited only to those compounds which satisfy the definition of "pollutants" or "contaminants" in 42 U.S.C. §9604 (a)(2).

As used herein, the term "release" shall have the same meaning as in 42 U.S.C. §9601(22), except that the term shall also include releases in the workplace. As used herein, the term "environment" shall have the same meaning as in 42 U.S.C. §9601(8).

As used herein, the term "claim or complaint" shall refer to any allegation of misconduct or of harmful or potentially harmful activity or omission by Reilly, whether or not the claim or complaint actually results in any legal proceeding against Reilly. The phrase is intended to include everything from a letter to a claim lodged with an insurance company to a lawsuit.

The terms "risk assessment" and "risk management" shall have the same meanings as those terms have in Reilly's Interrogatories to the United States.

As used herein, the term "disposal" shall have the same meaning as in 42 U.S.C. §6903(3) and the term "hazardous waste" shall have the same meaning as 42 U.S.C. §6903(5).

All documents are to be produced at times and locations mutually agreeable to the parties. Any document which is withheld from production on the basis of a claim of privilege shall be identified by stating the name of the author, the names of all addressees, the type of document, the date, the subject of the document and the basis for the claim of privilege.

#### INTERROGATORIES

1. In paragraph 33 of the defendant Reilly Tar & Chemical Corporation's Amended Answer to the United States's Complaint, defendant Reilly Tar & Chemical Corporation ("Reilly") admitted that hazardous wastes disposed of at the former Reilly plant site in St. Louis Park were hazardous substances within the meaning of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"). Please identify each such hazardous waste and each such hazardous substances disposed of, and state the date, location and manner of the disposal and the quantity of the waste or substance disposed.

2. In paragraphs 37 and 38 of Reilly's Amended Answer to the United States' Complaint, Reilly admits that releases of hazardous substances into the environment from Reilly's former plant site in St. Louis Park occurred between 1917 and 1872 within the meaning

of CERCLA. Please identify each such release which occurred and state the date, location and manner of each release and identify the hazardous substance or substances released, and the quantity of such substances or substance released.

3. In paragraph 17 of Reilly's Amended Answer to the United States' complaint, Reilly admitted that quantities of the residuals of coal tar were spilled and leaked by Reilly onto and into the ground at the former Reilly plant site. State the date, location and manner of each such spill or leak, and the quantity and composition (e.g., creosote, wet cut, pitch, etc.) of each such material spilled or leaked.

4. Is "Recommend Plan for a Comprehensive Solution of the Polynuclear Aromatic Hydrocarbon Problem in the St. Louis Park Area" (hereinafter "ERT Report") an admission by Reilly as a party opponent within the meaning of Rule 801(d)(2) of the Federal Rules of Evidence?

5. Identify each statement in the ERT Report which Reilly will contend is inaccurate or untrue at trial, and state in what respect Reilly will contend that each such statement identified is untrue or inaccurate, and state the reason why that statement is untrue or inaccurate.

6. For each coal tar refinery creosote treatment plant, or chemical plant owned or operated by Reilly at any time since 1917, identify and describe in detail all clean up measures proposed or undertaken by anyone at any time to respond to any pollution or alleged pollution or alleged pollution problem, including but not limited to soil, ground water and surface water contamination.

For each proposed or actual clean up measure identified, describe the nature of the problem or alleged problem, the nature of the clean up measure, the actual or estimated cost of the clean up measure, the date on which the measure was proposed and the date on which the measure was undertaken.

7. For each tar refinery, creosote treatment plant or chemical plant owned or operated by Reilly at any time since 1917, identify each actual or alleged instance of a release or threatened release of a pollutant, contaminant, or hazardous substance into the environment. For each release or threatened release identified, state the pollutant, contaminant or hazardous substance released, alleged to be released or threatened to be released, and state the date, location and manner of the release, alleged release or threatened release.

8. For each release, alleged release or threatened release identified in your response to paragraph 7 above, identify any risk assessment undertaken by Reilly or anyone else. For each risk assessment identified, state the manner or process by which the risks were assessed, the person or persons who assessed the risks, the date of the assessment, the conclusion of the assessment, whether Reilly concurred in the assessment and why Reilly concurred or did not concur.

9. Did Reilly or any industrial or professional organization to which Reilly or any of its officers or directors are members, including but not limited to the American Wood Preservers Institute, American Wood Preservers Association, the Synthetic Organic Chemical Manufacturer Association and the Chemical Manufacturers Association, submit any comments to EPA on the National Contingency Plan, the

Water Quality Criteria Document for Polynuclear Aromatic Hydrocarbons, or the Rebutable Presumption Against Registration for creosote, inorganic arsenicals and pentachlorophenol. If so, identify all such comments.

10. Identify each claim or complaint made by any person against Reilly concerning actual, alleged or threatened effects on health or the environment due to any actual, alleged or threatened release of hazardous substances, pollutants or contaminants at any tar refinery, wood treatment plant or chemical plant owned or operated by Reilly in any year from 1917 to the present. For each claim or complaint identified on your response, state who the complainant or claimant is, provide a description of the claim or complaint, including the identification of the plant involved, the hazardous substance, pollutant or contaminant involved, the alleged effect on health or the environment, and the date of the claim or complaint. If a civil administrative or criminal proceeding was initiated in whole or in part on the basis of the claim or complaint, identify the proceeding, the date that it was initiated, the date the proceeding was resolved and the outcome. If Reilly either voluntarily or under force of law took some action or made some payment in response to the claim or complaint, describe the action taken and the amount paid.

11. For each year from 1917 to date, identify each product line which Reilly produced (a) from the St. Louis Park plant, and (b) from all of Reilly's plants. For each year and each product line, identify the selling price of the product, the amount

of product sold, the costs of production, marketing, sales and overhead associated with that product, and the profit to Reilly both on an aggregate and a per unit basis from the sale of that product.

12. For each year from 1917 to date, and for each product line, identify the total amount of each product line Reilly manufactured and the total amount Reilly sold (a) from the St. Louis Park plant and (b) from all plants owned or operated by Reilly.

13. For each year from 1917 to date identify each product line produced by one of Reilly's competitors which competed with a product manufactured by Reilly. For each competitor's product line identified, state the amount of the product line sold and the price per unit of the product, and identify the Reilly product with which it competed.

14. State the average or typical volume and flow rate of wastewater from the former Reilly plant site in St. Louis Park to the bog (or swamp) to the south of the plant site for each year from 1917 to 1972. To the extent you are unable to give a precise answer, give your best estimate and identify the evidence including documents which support that estimate. For each of the years 1941 to 1972, state the average or typical volume and flow rate from the plant to the settling basin and from the settling basin to the bog.

15. State the average or typical loading level of pollutants or contaminants to the wastewater flowing from the former Reilly plant site to the bog (or swamp) south of the plant site for each year from 1917 to 1972. To the extent you are unable to provide a precise answer, give your best estimate and identify the evidence, including documents which support that estimate. For each year identify the pollutants or contaminants loaded into the wastewater stream. For purposes of this interrogatory, the "loading level" shall mean amount of pollutants and contaminants added to the wastewater stream from Reilly's operations. The loading level may be expressed in units of mass or volume of pollutants or contaminants per volume of wastewater.

16. Identify each sample which Reilly has taken from any well or piezometer in St. Louis Park, Hopkins or Edina. For each sample identified, state the well or piezometer sampled, the date of the sample, the methods of sampling and analysis used, the results of the sample, the firm or firms and individuals used by Reilly to take and analyze the sample, the results of the sample and analysis, and the protocol used.

17. Identify each soil boring taken by Reilly in the vicinity of the former Reilly plant site in St. Louis Park, state the location of the boring, the date it was taken, the firm and persons used by Reilly to take and analyze the boring, the method of boring and analyzing the boring, the protocol used and the results of the analysis of the boring.



18. With respect to any samples of material from well 23 conducted by Reilly or anyone acting on Reilly's behalf, state the following: who took the sample, who analyzed the sample, what methods and equipment were used to take the sample, what methods and equipment were used to analyze the sample, the date the sample was taken and the date the sample was analyzed and the results of the analysis. For each such sample also state whether it gave off an odor and if so, describe that odor. For each such sample, also state whether it caused any eye or skin irritation, and if so identify the person who suffered the irritation, how the irritation occurred, what part of the body was irritated and the degree and duration of the irritation. For each such sample, also describe the viscosity of the material extracted and state whether heat was used to extract the sample and state the temperature of the heat used.

19(a). For each of Reilly's plants, state when, if ever, an API separator with moveable baffles was installed.

(b). For each of Reilly's plants, state when, if ever, an API separator with a hopper bottom was installed.

(c). For each of Reilly's plants, state when, if ever, an API basin made of concrete was installed.

20. Identify all trade, associations, industrial associations or professional associations in which Reilly or any of its officers, directors or employees have been a member at any time from 1917 to date, and which have been concerned with the manufacture, sale use of coal tar, creosote penatachlorophenol and their derivatives, the treatment of wastewater, the chemical properties or the effects on health or the environment of poly-

nuclear aromatic hydrocarbons, pentachlorophenol or phenols, or the clean up of facilities where the release of hazardous substance has been alleged. For each organization identified, state whether Reilly was a member, state which Reilly officers, directors or employees were members, and state the years that Reilly or its officers, directors or employees were members. For each organization identified, list the committees on which a Reilly officer, director and employee served and identify who served on each such committee and his or her years of service, and describe the duties of that committee.

21. For each organization identified in Reilly's response to interrogatory no. 21, identify each document created by or for that organization or any consultant to or member of that organization which refers or relates to:

(a) The chemical composition of coal tar, creosote on their derivatives;

(b) Any allegation concerning the effect of polynuclear aromatic hydrocarbons or phenol or pentachlorophenol on human or animal health;

(c) Risk assessment or risk management of risks created or allegedly created by coal tar, creosote polynuclear aromatic hydrocarbons, benzene or phenols; or

(d) The clean up of sites where there has been an actual, threaten or alleged release of a hazardous substance.

22. Identify the studies referred to by Carl F. Leshar on pages 444 and 445 of the transcript of his deposition of September 6, 1984 concerning the cancer rate of coal by products workers.

23(a). List all compounds which have been found in coal tars. Identify those compounds on that list which are usually found in coal tar.

(b). List all compounds which have been found in creosote. Identify those compounds on that list which are usually found in creosote.

24. Identify all activities performed or founded, in whole or in part, by Reilly to remedy or abate conditions alleged by the plaintiff in Velsicol Corp. v. Reilly Tar & Chemical Corp. (E.D. Tenn.).

25(a). For each year from 1917 to 1972, state the amount of coal tar purchased for Reilly's St. Louis Park plant and the amount of coal tar used in the plant's processes.

(b). For each year from 1917 to 1972, state the amount of creosote produced at Reilly's St. Louis Park plant, the amount of creosote used in the wood preserving operation at that plant, the amount sold, and the amount used for other purposes at the plant (and describe those purposes).

(c). For each year from 1917 to 1972, state the amount of pentachlorophenol purchased from Reilly's St. Louis Park plant, the amount used in the plant's wood treatment operations and the amount used for other purposes (and describe those purposes).

(d). For each year from 1917 to 1972, state the amount of zinc chloride used at Reilly's plant on St. Louis Park and describe how it was used at the plant.

26. Identify each expert witness who will testify on Reilly's behalf at trial and provide a summary of the opinions to which he or she will testify and the grounds and facts upon which each opinion is based. This interrogatory need not be answered if Reilly provides this information in accordance with the terms of the Case Management Order.

DOCUMENT REQUESTS

1. Produce all documents which refer or relate to the information requested in Interrogatories nos. 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24 and 25, including all documents identified or discussed in Reilly's responses to those interrogatories or which refer or relate to the matters discussed in Reilly's responses to those interrogatories.

2. Produce all documents which refer or relate to any pollution control abatement activity including clean up activities proposed or taken by Reilly at any tar refinery, wood treatment plant or chemical plant owned or operated by Reilly at any time from 1917 to date.

3. Produce all documents which refer or relate to any actual release, alleged release or threatened release of any hazardous substance, pollutant or contaminant from any plant owned or operated by Reilly at any time from 1917 to date.

4. Produce all documents which refer or relate to any claims or complaints made by any person (including Reilly employees, public entities and purchasers of Reilly plant sites) against Reilly

concerning actual, alleged or threatened affects on health or the environmental due to or allegedly due to any actual, threatened or alleged releases of hazardous substances, pollutants or contaminants, including but not limited to polynuclear aromatic hydrocarbons, coal tar, creosote, pentachlorophenol, phenols and zinc chloride, from any tar refinery, creosote treatment plant or chemical plant owned or operated by Reilly at any time from 1917 to date.

5. Produce all documents which refer or relate to the installation, cost, operation or maintenance of any pollution control device installed or proposed at any tar refinery, wood treatment plant of chemical plant owned or operated by Reilly at any time from 1917 to date.

6. Produce all documents in Reilly's possession, custody or control which concern risk assessment, risk management or the clean up of any site or sites on EPA's National Priorities List. Included in this request are all documents which came into Reilly's possession, custody or control through its participation or the participation of its officers, directors or employees in industry or professional associations.



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CERTIFICATE OF SERVICE

I, David Hird, certify that on the 1st day of November 1984, I caused to be served a copy of the foregoing Interrogatories and Request for Production of Documents by first class mail with postage prepaid upon the following:

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